IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	**05-CV-0329 GKF-PJC**
	)	
TYSON FOODS, INC., et al,	)	
	)	
Defendants.	)	

DEFENDANTS' REPLY TO THE STATE OF OKLAHOMA'S RESPONSE TO MOTION TO EXCLUDE THE TESTIMONY OF DR. CHRISTOPHER TEAF (DOCKET NO. 2156)

The undersigned Defendants submit the following *Reply* to Plaintiffs' *Response* in opposition to Defendants' *Motion to Exclude the Testimony of Dr. Christopher Teaf* ("*Motion*") (Docket Nos. 2156 and 2067, respectively).

I. INTRODUCTION

Instead of attempting to respond to the arguments and authorities in Defendants' *Motion*, Plaintiffs' *Response* is more like an answer to the brief they *wish* Defendants had filed. For example, instead of attempting to respond to Defendants' arguments regarding the evidentiary limitations of tests for indicator bacteria, Plaintiffs respond to an argument the Defendants did **not** make – *i.e.*, that Defendants advocate the wholesale abandonment of the indicator bacteria paradigm. Defendants are not making this argument and no reasonable reader of Defendants' *Motion* would reach such a conclusion. Because the remainder of Plaintiffs' *Response* likewise fails to refute Defendants' demonstration that Dr. Teaf's opinions do not satisfy the reliability and relevance requirements of *Daubert*, this Court should enter an order excluding Dr. Teaf's testimony.

II. ARGUMENT AND AUTHORITIES

A. Dr. Teaf's testimony should be excluded because his claimed expertise was acquired as part of this litigation, not as part of his previous education or experience as a toxicologist or risk assessor.

Although most respondents to a motion to exclude expert witness testimony cite to legal or scientific authorities to rebut the movant's attack on the admissibility of the expert's testimony, Plaintiffs have taken the wholly unorthodox approach of having Dr. Teaf simply draft a new Declaration in which Dr. Teaf attempts to manufacture credibility for himself, and for his expert opinions. *See* Dr. Teaf's June 4, 2009 Declaration, attached as Exh. 1 to *Response*. Moreover, Plaintiffs do not merely reference Dr. Teaf's new Declaration in their *Response*, his

new Declaration is the primary support for the Plaintiffs' *Response* as the Plaintiffs cite to Dr. Teaf's new Declaration no fewer than 53 times – far more than any other cited authority.[1] In sum, Plaintiffs' *Response* is a circular morass of faulty reasoning based upon an entirely new Declaration from Dr. Teaf, custom-designed to respond to both legal and factual arguments in Defendants' *Motion,* and consisting of nothing more than Dr. Teaf's self-serving assertions that he thinks he really is qualified and that his opinions really are based on sound science. *See, e.g.,* Exh. 1 to *Response* at 3-5, 7, 14-18. If ever there were a classic example of hollow *ipse dixit* reasoning, Dr. Teaf's new Declaration is it.

Contrary to Plaintiffs' assertions, Defendants do not challenge Dr. Teaf's qualifications to offer expert testimony in this matter merely because he has not "focused his life's work" on "the microbial issues associated with the application of biosolids to soil." *Response* at 6. The fact is that, prior to becoming part of the Plaintiffs' litigation expert team, Dr. Teaf had not devoted a single day of his professional life to the study of poultry, poultry litter, or activities and conditions associated with the land-application of poultry litter. Defendants have demonstrated that Dr. Teaf is not qualified to render his stated opinions in this case because Dr. Teaf candidly admits that his claimed expertise on "the topic of bacteria in poultry or poultry litter" was obtained as "a result of [his] activities in this case…." Exh. 2 to *Motion* at 180:1-7. Neither Dr. Teaf's new Declaration, nor Plaintiffs' *Response*, changes the fact that Dr. Teaf readily admits

[1] Defendants have moved to strike Dr. Teaf's June 4, 2009 Declaration, as well as two other new declarations by Dr. Teaf, and several other new and untimely declarations by Plaintiffs' experts. *See* Doc. No. 2241. Defendants respectfully reiterate their request that the Court strike Dr. Teaf's untimely, new Declaration because Dr. Teaf's opinions on his own qualifications and work are irrelevant as it is the province of this Court to determine whether Dr. Teaf's proffered opinions can withstand a *Daubert* review. Although Dr. Teaf's new Declaration should be stricken from the record, with or without the new Declaration, Plaintiffs' *Response* fails to refute the legal arguments and factual demonstrations made in Defendants' *Motion* to exclude Dr. Teaf's testimony.

that he *became* an expert on poultry-related issues during this litigation – based upon his review of litigation work completed by the Plaintiffs' multitude of experts.

B. Plaintiffs mischaracterize Defendants' arguments on the use of indicator bacteria because Plaintiffs cannot refute Defendants' actual arguments.

Throughout Plaintiffs' *Response*, Plaintiffs repeatedly mischaracterize the nature of Defendants' arguments on the use of indicator bacteria as a screening mechanism for regulatory agencies. However, so that the record on this matter is again made clear, Defendants state that they are **not** advocating that "the Court should dispense with the use of the indicator bacteria approach" or that "the current use of indicator bacteria be discontinued or disregarded." *Response* at 18 and 16, respectively. On the contrary, Defendants recognize that indicator bacteria are currently used by regulatory agencies to conduct routine monitoring and screening of water bodies as part of their procedures for monitoring the quality of recreational waters. Defendants are **not** advocating the abandonment of the indicator bacteria paradigm for regulatory purposes. The point that Defendants have made with respect to the use of indicator bacteria – and the point that Plaintiffs refuse to acknowledge because it is fatal to their claim – is that the indicator paradigm cannot be used to establish causation and liability in the context of litigation because the presence of indicator bacteria tells no one anything about the source of the indicator bacteria, or even whether pathogens are present.

From a public health perspective, regulators use indicator bacteria because they need not know the source of the bacteria to make a reasonable regulatory decision that people should avoid recreating in certain waters. However, there is a critical distinction between *screening* for potential risk and assigning causal blame for creating a risk. Ignoring this distinction between screening for potential risk and identifying the cause of a particular risk, Dr. Teaf intends to

testify that the water quality standards used by regulatory agencies to screen for potential contamination of Oklahoma waters equate to a "litmus test" for imposing liability on the poultry companies.[2] *See, e.g.*, Exh. 3 to *Motion*. However, the indicator bacteria paradigm does not, and was never intended to, identify sources of indicator bacteria so Dr. Teaf's reliance on indicator bacteria to support his opinion on causation is improper and unscientific. To go to the next step, and assign causation to a particular source, additional testing and evidence are required. Plaintiffs have failed to conduct this additional source analysis by any reliable scientific means and thus, cannot meet their evidentiary burden of demonstrating the presence of any poultry-sourced pathogens in IRW waters.

Contrary to Plaintiffs' baseless assertions, Defendants are not seeking to impose "a new and unarticulated standard" for assessing water quality. *Response* at 16. Defendants are simply seeking recognition of the evidentiary requirements applicable to every plaintiff in every case – *i.e.*, that the plaintiff must support his claims by a preponderance of evidence that establishes a causal link between the defendant and the alleged harm. Defendants' argument that the presence of indicator bacteria does not establish any causal link to poultry litter is hardly novel, or part of some contrived "litigation driven science." *Response* at 18. Defendants' position has already been recognized by this Court and affirmed by the Tenth Circuit Court of Appeals. *See Opinion*

[2] It is interesting to note that Dr. Teaf's desire to apply regulatory standards in litigation is in conflict with the Plaintiffs' position on whether the Environmental Protection Agency's ("EPA") regulatory standards for "hold times" for water samples are applicable to litigation. In the Plaintiffs' *Response* to Defendants' *Motion to Exclude Expert Testimony Based on Bacterial Analyses Conducted in Violation of EPA, USGS, and Oklahoma Standards* (Doc. No. 2180), the Plaintiffs argue that "hold-time standards used for regulatory and compliance purposes are not applicable" to litigation. *Id*. at 10. The Plaintiffs' theory is that they did not have to comply with the EPA's 6-hour hold time standards because such standards are "for regulatory and compliance purposes" whereas the Plaintiffs' sampling was for litigation purposes. *See id*. at 1. In sum, the Plaintiffs want to have it both ways by arguing that: (1) regulatory water quality standards apply

and Order at Doc. No. 1765 ("The State has not yet met its burden of proving that bacteria in the waters if the IRW are caused by the application of poultry litter rather than by other sources, including cattle manure and human septic systems.") and *State v. Tyson Foods, Inc. et al*, 565 F.3d 769, 777 (10th Cir. 2009) ("…Oklahoma failed to link land-applied poultry litter and the bacteria in the IRW…Oklahoma's inability to make this necessary evidentiary link meant that it could not establish that poultry litter may be a risk of harm in the IRW waterways.").[3]

C. Plaintiffs' claim that Dr. Teaf relied upon a fate and transport analysis is contrary to the evidence, Dr. Teaf's own testimony, and findings issued by this Court and the Tenth Circuit Court of Appeals.

Plaintiffs erroneously assert that Dr. Teaf relied upon a "fate and transport analysis" as one of the lines of evidence allegedly supporting his opinion. *Response* at 14. Dr. Teaf has already testified that there was no fate and transport to his quasi-TMDL work. *See* Exh. 1 hereto at 278:12-14 (Q: "So there was no fate and transport element to your work?" A: "No.") and 280:9-12 ("I called it a loading analysis, but I did not do a fate and transport from the point of deposition to the water body."). Moreover, none of the Plaintiffs' other experts have conducted a fate and transport analysis. *See, e.g., State v. Tyson, et al*, 565 F.3d at 778 ("Oklahoma failed to conduct a fate and transport study to establish that any surviving bacteria from poultry litter

---

when the Plaintiffs want to use them to support their case against Defendants; but, (2) regulatory water standards do not apply when the they are adverse to the Plaintiffs' case against Defendants.

[3] Plaintiffs' argument that the fact that other watersheds in Oklahoma are impaired by bacterial contamination or cyanobacteria is a "red herring" is similarly in conflict with prior opinions by this Court and the Tenth Circuit Court of Appeals holding that this fact is relevant and fatal to Plaintiffs' claims. *See Opinion and Order* at Doc. No. 1765 (denying Plaintiffs' motion for preliminary injunction because "[t]he record reflects levels of fecal bacteria at similar levels in rivers and streams throughout the State of Oklahoma, including waterways in whose watersheds the record does not evidence similar application of poultry waste.") and *State v. Tyson, et al.*, 565 F.3d at 778 (affirming this Court's finding that "…IRW bacteria levels appear not to differ from bacteria levels in other bodies of water throughout Oklahoma, even where poultry farming is less common.").

actually reached waters of the IRW."); Exh. 4 to *Motion* at 301:21-302:10, 405:8-13, and 680:16-18, 688:24-699:17.

Consequently, Plaintiffs are incorrect in stating that "[a] fate and transport analysis was conducted" and incorrect in stating that the Plaintiffs have demonstrated the presence of poultry litter constituents "from the poultry houses, to the edge of the fields where it is applied, to its leaching in groundwater, and running off into streams, rivers, and finally…traveling to the waters and sediments of Lake Tenkiller." *Response* at 14. There is simply no evidence to support this claim. On the contrary, the following summary of the Plaintiffs' sampling data refutes Plaintiffs' claim and Dr. Teaf's opinions on such matters:[4]

Targeted Bacteria	**Sampled Media**	**Number of Samples**	**Number of Negative Samples or Samples Below Detection Limit**	**% Negative Samples**
Salmonella	Poultry litter	17	15	88% negative
Salmonella	Groundwater	77	77	100% negative
Campylobacter	Groundwater	1	1	100% negative
Campylobacter	Poultry litter	8	8	100% negative
Campylobacter	Soil	9	9	100% negative
Campylobacter	Surface water	302	300[5]	99.3% negative
Staphylococcus	Poultry litter	17	17	100% negative
Staphylococcus	Soil	68	68	100% negative
Staphylococcus	Groundwater	77	76	98.7% negative

[4] *See* Exhs. 7A-7C to *Motion*.

[5] The two positive results do not support Dr. Teaf's opinions regarding alleged risk from recreating in IRW waters because they were collected from edge-of-field samples and Dr. Teaf

Moreover, the Plaintiffs never even bothered to test for *E. coli* 0157; *Giardia*; or *Cryptosporidium*. Exh. 1 to *Motion* at 197:19-199:2; 217:12-17; and 286:8. Although each of these sample results is compelling evidence demonstrating the absence of evidentiary support for, and thus the unreliable nature of, Dr. Teaf's opinion that the land application of poultry litter is creating a risk to human health in the IRW, perhaps the strongest evidence demonstrating Dr. Teaf's flawed analysis is the fact that the State's sampling never found *Campylobacter* or *Staphylococcus* in poultry litter, and the fact that during the more than three years of sampling conducted by the Plaintiffs, the Plaintiffs only found *Salmonella* in 2 samples of poultry litter.[6]

D. Dr. Teaf's opinion that pathogens such as *Salmonella* and *Campylobacter* were present in negative samples cannot survive *Daubert* review because it is not capable of testing and because it has no known rate of error.

Dr. Teaf intends to testify that although Plaintiffs' sampling failed to detect the presence of *Campylobacter* or *Salmonella* with any significant frequency, the Court and a jury should simply assume that such pathogens were actually present. Dr. Teaf opines that these pathogens were in a viable but non-culturable ("VBNC") state and thus, could not be detected. *See Response* at 17-18. However, as Defendants demonstrated in their *Motion*, multiple alternative testing options exist to detect the presence of such pathogens in water. *See id.* at 13-14. Plaintiffs do not acknowledge these available testing methodologies in their *Response*, much less attempt to explain why they failed to use them or why Dr. Teaf does not even know about them. *See* Exh. 2 to *Motion* at 21:6-22:8.

Instead, Plaintiffs maintain that Dr. Teaf should be allowed to tell a jury that although the Plaintiffs tested for *Campylobacter* and *Salmonella*, and did not find them in the vast majority of

---

has no evidence that any runoff from these edge-of-field sample sites ever traveled to recreational waters of the IRW. *See* Exh. 2 to *Motion* at 350:18-351:18.

the samples, the jury should ignore those negative test results and instead, assume that *Campylobacter* and *Salmonella* were really there. Dr. Teaf's opinion on this issue is indefensible, unscientific, and incapable of being tested because it lies in the world of speculation and thus, outside the bounds of evidence. Dr. Teaf's opinion is the equivalent of someone attempting to detect the presence of a small object using a magnifying glass with a power of 10 and, upon failing to detect the object, just assuming that the object is there when all the while he could have used a nearby magnifying glass with a power of 1,000 to determine if the object was really there after all. Again, this analysis is not scientific and it cannot survive a *Daubert* analysis because there is no way to determine the error rate of such an approach – *i.e.*, one can neither prove nor disprove the assumption that pathogens were in samples despite the fact that the tests for them were almost uniformly negative.

E. Dr. Teaf's opinions on alleged risk in the IRW are not supported by County incident reports of *Campylobacter* and *Salmonella*.

Dr. Teaf claims that reported illnesses from *Campylobacter* and *Salmonella* in IRW Counties provide support for his opinion that the land application of poultry litter is creating a risk to human health in the IRW. *See Response* at 19-20. However, Dr. Teaf admits that the County Health Reports do not provide evidence as to whether the reported cases of bacterial illness were foodborne or waterborne (Exh. 2 to *Motion* at 150:24-151:7) and that they do not provide any information as to whether the reported incidents had anything to do with contact with water in the IRW (Exh. 1 to *Motion* at 163:13-164:15). Even the State's own health expert, Dr. Lawrence, agrees that these incident reports do not demonstrate whether there is a connection between the illnesses and the land-application of poultry litter. *See* Exh. 10 to *Motion* at 83:14-24).

---

[6] Defendants also note that the Plaintiffs have failed to identify a single person who

Moreover, the Center for Disease Control has assessed the incidents of disease caused by *Campylobacter* and *Salmonella* in the United States and determined that 80% of all illness from *Campylobacter* and 95% of all illness from *Salmonella* are caused by food. *See* Exh. 9 to *Motion*. Dr. Teaf does not refute the CDC's findings or provide any evidentiary basis to conclude that the cause of reported illnesses in IRW Counties is any different than every other County in the United States. Instead, Plaintiffs assert that Dr. Teaf should be allowed to assume that contact with IRW waters is the cause of *Campylobacter* and *Salmonella* illnesses in IRW Counties because "it is something that one might expect to happen where the evidence demonstrates high bacteria levels in the surface and ground water." *Response* at 20. This Court and the Tenth Circuit Court of Appeals have already determined that the presence of generic indicator bacteria do not provide the necessary evidentiary link between the land application of poultry litter and any risk to human health. *See* Section B, *supra*. Therefore, Dr. Teaf's opinion that poultry litter is causing increased numbers of illnesses in the IRW is mere speculation and should be excluded by this Court.

F. Dr. Teaf's sole claim of independent analysis in this matter – *i.e.*, a quasi-TMDL assessment – fails to satisfy the EPA's requirements for conducting a bacteria TMDL.

As support for his opinions regarding the source of bacteria in the IRW, Dr. Teaf claims to have conducted a quasi-TMDL analysis in accordance with "standard approaches" for conducting TMDL evaluations "at both the state and federal levels." *See Response* at 11-12 and Exh. 1 hereto at 281:8-17. Essentially, Dr. Teaf's quasi-TMDL analysis consisted of estimating the number of various animals in the IRW, multiplying those numbers by the estimated daily fecal coliform output for each animal, and using the product of those two variables as the

---

became ill as a result of being exposed to any poultry-sourced pathogens in IRW waters.

estimated amount of fecal coliform entering the IRW for each type of animal. *See id*. at 272:15-278:13. Dr. Teaf's exclusive reliance upon fecal coliform in his quasi-TMDL assessment of IRW conditions, in the absence of a fate and transport study, is inconsistent with the EPA's TMDL guidance because EPA recognizes that *enterococci* appear to be a better predictor of risk to swimmers than fecal coliform because "the die-off rate of fecal coliform bacteria is much greater than the *enterococci* die-off rate." *See* Exh. 2 hereto at 2-4. In addition to failing to conduct a fate and transport analysis, Dr. Teaf's quasi-TMDL failed to consider the factors EPA considers to affect reasonable estimates of potential risks to human health – *i.e.*, waterbody conditions, bacteria exposure to sunlight, the age of the fecal deposit, etc. *See id*. at 2-7.

G. Plaintiffs' *Response* fails to refute Defendants' demonstration that Dr. Teaf's opinions on alleged risks from cyanobacteria and DBPs are not based upon reliable evidence or scientific methodology.

Plaintiffs' *Response* arguments regarding WHO guidelines for assessing risk from cyanobacteria and EPA risk-based screening levels for DBPs fail to cure the fundamental defect in Dr. Teaf's proposed testimony regarding an alleged risk from these substances – *i.e*., Dr. Teaf has no evidence that poultry litter is the cause or source of any cyanobacteria or organic material allegedly causing increased levels of DBPs in IRW waters, and no evidentiary support for why he should be allowed to provide testimony requiring a jury to simply assume that poultry litter is the source of these substances in the IRW when other watersheds throughout the State exhibit similar levels of these substances in the absence of poultry activities. *See Response* at 20-25.

III. CONCLUSION

For the reasons stated herein, and as more fully set forth in Defendants' *Motion*, Defendants respectfully request that the Court enter an order excluding the testimony of Dr. Teaf as requested in Defendants' *Motion*.

Respectfully submitted,

BY: /s/ *Paula M. Buchwald*
Patrick M. Ryan, OBA # 7864
Paula M. Buchwald, OBA # 20464
RYAN, WHALEY & COLDIRON, P.C.
119 North Robinson, Suite 900
Oklahoma City, Oklahoma 73102
(405) 239-6040 Telephone
(405) 239-6766 Facsimile
-and-

Michael R. Bond, *appearing pro hac vice*
Erin Thompson, *appearing pro hac vice*
KUTAK ROCK LLP
The Three Sisters Building
214 West Dickson Street
Fayetteville, Arkansas 72701-5221
(479) 973-4200 Telephone
(479) 973-0007 Facsimile

-and-

Robert W. George, OBA #18562
Bryan Burns, *appearing pro hac vice*
TYSON FOODS, INC.
2210 West Oaklawn Drive
Springdale, Arkansas 72762
(479) 290-4067 Telephone
(479) 290-7967 Facsimile

-and-

Jay T. Jorgensen, *appearing pro hac vice*
Thomas C. Green, *appearing pro hac vice*
Mark D. Hopson, *appearing pro hac vice*
Gordon D. Todd, *appearing pro hac vice*
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
(202) 736-8000 Telephone
(202) 736-8711 Facsimile

Attorneys for Defendants Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Poultry, Inc., and Cobb-Vantress, Inc.

BY:____/s/*James M. Graves*_____

(SIGNED BY FILING ATTORNEY WITH PERMISSION)

Woodson W. Bassett III
Gary V. Weeks
James M. Graves
K.C. Dupps Tucker
BASSETT LAW FIRM
P.O. Box 3618
Fayetteville, AR 72702-3618
Telephone: (479) 521-9996
Facsimile: (479) 521-9600

-and-

Randall E. Rose, OBA #7753
George W. Owens
OWENS LAW FIRM, P.C.
234 W. 13th Street
Tulsa, OK 74119
Telephone: (918) 587-0021
Facsimile: (918) 587-6111

Attorneys for George's, Inc. and George's Farms, Inc.

BY:____*/s/ A. Scott McDaniel*_____

(SIGNED BY FILING ATTORNEY WITH PERMISSION)

A. Scott McDaniel, OBA #16460
Nicole M. Longwell, OBA #18771
Philip D. Hixon, OBA #19121
MCDANIEL, HIXON, LONGWELL & ACORD, PLLC
320 South Boston Ave., Ste. 700
Tulsa, OK 74103
Telephone: (918) 382-9200
Facsimile: (918) 382-9282

-and-

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, PLLC
425 W. Capitol Avenue, Suite 1800
Little Rock, AR 72201
Telephone: (501) 688-8800
Facsimile: (501) 688-8807

Attorneys for Peterson Farms, Inc.

BY: */s/ John R. Elrod*
(SIGNED BY FILING ATTORNEY WITH PERMISSION)
John R. Elrod
Vicki Bronson, OBA #20574
P. Joshua Wisley
CONNER & WINTERS, L.L.P.
211 East Dickson Street
Fayetteville, AR 72701
Telephone: (479) 582-5711
Facsimile: (479) 587-1426

-and-

Bruce W. Freeman
D. Richard Funk
CONNER & WINTERS, L.L.P.
4000 One Williams Center
Tulsa, OK 74172
Telephone: (918) 586-5711
Facsimile: (918) 586-8553

Attorneys for Simmons Foods, Inc.

BY: */s/ Robert P. Redemann*
(SIGNED BY FILING ATTORNEY WITH PERMISSION)
Robert P. Redemann, OBA #7454
PERRINE, MCGIVERN, REDEMANN,
REID, BERRY & TAYLOR, P.L.L.C.
Post Office Box 1710
Tulsa, OK 74101-1710
Telephone: (918) 382-1400
Facsimile: (918) 382-1499

-and-

Robert E. Sanders
Stephen Williams
YOUNG WILLIAMS P.A.
Post Office Box 23059
Jackson, MS 39225-3059
Telephone: (601) 948-6100
Facsimile: (601) 355-6136

Attorneys for Cal-Maine Farms, Inc. and Cal-Maine Foods, Inc.

BY:___*/s/ John H. Tucker*_____
(SIGNED BY FILING ATTORNEY WITH PERMISSION)
John H. Tucker, OBA #9110
Theresa Noble Hill, OBA #19119
RHODES, HIERONYMUS, JONES, TUCKER & GABLE, PLLC
100 W. Fifth Street, Suite 400 (74103-4287)
P.O. Box 21100
Tulsa, Oklahoma 74121-1100
Telephone: (918) 582-1173
Facsimile: (918) 592-3390

-and-

Delmar R. Ehrich
Bruce Jones
Krisann C. Kleibacker Lee
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
Telephone: (612) 766-7000
Facsimile: (612) 766-1600

Attorneys for Cargill, Inc. and Cargill Turkey Production, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 2009, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W.A. Drew Edmondson, Attorney General — **fc.docket@oag.state.ok.us**
Kelly H. Burch, Assistant Attorney General — **Kelly.burch@oag.state.ok.us**
J. Trevor Hammons, Assistant Attorney General — **trevor.hammons@oag.state.ok.us**
Daniel P. Lennington, Assistant Attorney General — **daniel.lennington@oag.ok.us**

M. David Riggs — **driggs@riggsabney.com**
Joseph P. Lennart — **jlennart@riggsabney.com**
Richard T. Garren — **rgarren@riggsabney.com**
Sharon K. Weaver — **sweaver@riggsabney.com**
Robert A. Nance — **rnance@riggsabney.com**
D. Sharon Gentry — **sgentry@riggsabney.com**
RIGGS, ABNEY, NEAL, TURPEN, ORBISON & LEWIS

Louis Werner Bullock — **lbullock@bullock-blakemore.com**
Robert M. Blakemore — **bblakemore@bullock-blakemore.com**
BULLOCK BULLOCK & BLAKEMORE

David P. Page — **dpage@riggsabney.com**
BELL LEGAL GROUP

Frederick C. Baker — **fbaker@motleyrice.com**
Lee M. Heath — **lheath@motleyrice.com**
Elizabeth C. Ward — **lward@motleyrice.com**
Elizabeth Claire Xidis — **cxidis@motleyrice.com**
William H. Harwold — **bnarwold@motleyrice.com**
Ingrid L. Moll — **imoll@motleyrice.com**
Jonathan D. Orent — **jorent@motleyrice.com**
Michael G. Rousseau — **mrousseau@motleyrice.com**
Fidelma L. Fitzpatrick — **ffitzpatrick@motleyrice.com**
MOTLEY RICE, LLC

COUNSEL FOR THE PLAINTIFF, THE STATE OF OKLAHOMA

Robert R. Redemann — **rredemann@pmrlaw.net**
PERRINE, McGIVERN, REDEMANN, REID, BARRY & TAYLOR, P.L.L.C.

David C. Senger — **david@cgmlawok.com**

Robert E. Sanders — **rsanders@youngwilliams.com**
Edwin Stephens Williams — steve.williams@youngwilliams.com

YOUNG WILLIAMS P.A.

COUNSEL FOR CAL-MAINE FARMS, INC. & CAL-MAINE FOODS

John H. Tucker — jtuckercourts@rhodesokla.com
Theresa Noble Hill — thillcourts@rhodesokla.com
Colin Hampton Tucker — ctucker@rhodesokla.com
Kerry R. Lewis — klewis@rhodesokla.com
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry Wayen West — terry@thewestlawfirm.com
THE WEST LAW FIRM

Delmar R. Ehrich — dehrich@faegre.com
Bruce Jones — bjones@faegre.com
Dara D. Mann — dmann@mckennalong.com
Krisann C. Kleibacker Lee — kklee@faegre.com
Todd P. Walker — twalker@faegre.com
Melissa C. Collins — mcollins@faegre.com
Christopher Harold Dolan — cdolan@faegre.com
Randall E. Kalnke — rkalnke@faegre.com
FAEGRE & BENSON, LLP

COUNSEL FOR CARGILL, INC. & CARGILL TURKEY PRODUCTION, LLC

James Martin Graves — jgraves@bassettlawfirm.com
Gary V. Weeks — gweeks@bassettlawfirm.com
Woody Bassett — wbassett@ bassettlawfirm.com
K.C. Dupps Tucker — kctucker@bassettlawfirm.com
Earl “Buddy” Chadick — bchadick@bassettlawfirm.com
BASSETT LAW FIRM

George W. Owens — gwo@ owenslawfirmpc.com
Randall E. Rose — rer owenslawfirmpc.com
OWENS LAW FIRM

COUNSEL FOR GEORGE’S INC. & GEORGE’S FARMS, INC.

A. Scott McDaniel — smcdaniel@mhla-law.com
Nicole Longwell — nlogwell@mhla-law.com
Phillip Hixon — phixon@mhla-law.com
Craig A. Mirkes — cmirkes@mhla-law.com
McDANIEL, HIXON, LONGWELL & ACORD, PLLC

Sherry P. Bartley — sbartley@mwsgw.com
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC

COUNSEL FOR PETERSON FARMS, INC.

John Elrod jelrod@cwlaw.com
Vicki Bronson vbronson@cwlaw.com
P. Joshua Wisley jwisley@cwlaw.com
Bruce W. Freeman bfreeman@cwlaw.com
D. Richard Funk rfunk@cwlaw.com
CONNOR & WINTERS, LLP

COUNSEL FOR SIMMONS FOODS, INC.

Stephen L. Jantzen sjantzen@ryanwhaley.com
Paula M. Buchwald pbuchwald@ryanwhaley.com
Patrick M. Ryan pryan@ryanwhaley.com
RYAN WHALEY COLDIRON & SHANDY

Mark D. Hopson mhopson@sidley.com
Jay Thomas Jorgensen jjorgensen@sidley.com
Timothy K. Webster twebster@sidley.com
Thomas C. Green tcgreen@sidley.com
Gordon D. Todd gtodd@sidley.com
SIDLEY, AUSTIN, BROWN & WOOD LLP

Michael R. Bond michael.bon@kutakrock.com
Erin W. Thompson erin.thompson@kutakrock.com
Dustin R. Darst dustin.darst@kutakrock.com
KUTAK ROCK, LLP

Robert George robert.george@tyson.com
L. Bryan Burns bryan.burns@tyson.com
TYSON FOODS, INC.

COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC., & COBB-VANTRESS, INC.

R. Thomas Lay rt@kiralaw.com
KERR, IRVIND, RHODES & ABLES

Jennifer Stockton Griffin jgriffin@lathropgage.com
David Gregory Brown dbrown@lathropage.com
Frank M. Evans, III fevans@lathropgage.com
LATHROP & GAGE, L.C.

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robin S. Conrad rconrad@uschamber.com
NATIONAL CHAMBER LITIGATION CENTER

Gary S. Chilton **gchilton@holladaychilton.com**
HOLLADAY, CHILTON AND DEGIUSTI, PLLC

COUNSEL FOR US CHAMBER OF COMMERCE AND AMERICAN TORT REFORM ASSOCIATION

D. Kenyon Williams, Jr. **kwilliams@hallestill.com**
Michael D. Graves **mgraves@hallestill.com**
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON

COUNSEL FOR POULTRY GROWERS/INTERESTED PARTIES/POULTRY PARTNERS, INC.

Richard Ford **richard.ford@crowedunlevy.com**
LeAnne Burnett leanne.burnett@crowedunlevy.com
CROWE & DUNLEVY

COUNSEL FOR OKLAHOMA FARM BUREAU, INC.

Kendra Akin Jones, Assistant Attorney General **Kendra.Jones@arkansasag.gov**
Charles L. Moulton, Sr. Assistant Attorney General Charles.Moulton@arkansasag.gov

COUNSEL FOR STATE OF ARKANSAS AND ARKANSAS NATIONAL RESOURCES COMMISSION

Mia Vahlberg **mvahlberg@gablelaw.com**
GABLE GOTWALS

James T. Banks **jtbanks@hhlaw.com**
Adam J. Siegel **ajsiegel@hhlaw.com**
HOGAN & HARTON, LLP

COUNSEL FOR NATIONAL CHICKEN COUNCIL; U.S. POULTRY AND EGG ASSOCIATION & NATIONAL TURKEY FEDERAL

John D. Russell **jrussell@fellerssnider.com**
FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, PC

William A. Waddell, Jr. **waddell@fec.net**
David E. Choate **dchoate@fec.net**

COUNSEL FOR ARKANSAS FARM BUREAU FEDERATION

Barry Greg Reynolds **reynolds@titushillis.com**
Jessica E. Rainey **jrainey@titushillis.com**
TITUS, HILLIS, REYNOLDS, LOVE, DICKMAN & MCCALMON

Nikka Baugh Jordon **njordan@lightfootlaw.com**
William S. Cox III **wcox@lightfootlaw.com**

COUNSEL FOR AMERICAN FARM BUREAU AND NATIONAL CATTLEMEN'S BEEF ASSOCIATION

and I further certify that a true and correct copy of the above and foregoing will be mailed via regular mail through the United States Postal Service, postage properly paid, on the following who are not registered participants of the ECF System:

ATTORNEYS FOR PLAINTIFF

C. Miles Tolbert
SECRETARY OF THE ENVIRONMENT
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118

Cherri House
P.O. Box 1097
Stilwell, OK 74960

David Gregory Brown
Lathrop & Gage LC
314 E. High Street
Jefferson City, MO 65101

Donna S. Parker
34996 S 502 Road
Park Hill, OK 74451

Doris Mares
14943 SE 15th Street
Choctaw, OK 73020-7007

G. Craig Heffinton
20144 W. Sixshooter Road
Cookson, OK 74427

John & Virginia W. Adair Family Trust
Rt. 2 Box 1160
Stilwell, OK 74960

Cary Silverman
Shook Hardy & Bacon LLP
600 14th Street NW Ste 800
Washington D.C. 20005-2004

Dustin McDaniel
Office of the Attorney General
323 Center Street
Suite 200
Little Rock, AR 72201-2610

George R. Stubblefield
HC-66, Box 19-12
Proctor, OK 74457

Gordon W. Clinton
23605 S. Goodnight Lane
Welling, OK 74471

Jerry M. Maddux
Selby Connor Maddux Janer
P.O. Box Z
Bartlesville, OK 74005-5025

Thomas C. Green
Sidley Austin Brown & Wood LLP
1501 K Street NW
Washington, D.C. 20005

Victor E. Schwartz
Shook Hardy & Bacon LLP
600 14th Street NW
Suite 800
Washington, D.C. 2005-2004

William House
P.O. Box 1097
Stilwell, OK 74960

Jim Baby
RR 2, Box 1711
Westville, OK 74965

Jonathan D. Orent
Motley Rice LLC
321 S. Main Street
Providence, RI 02940

Justin Allen
Office of the Attorney General
323 Center Street
Suite 200
Little Rock, Ark 72001-2610

Marjorie Garman
19031 US Hwy 412
Colcord, Ok 74338-3861

Melissa C. Collins
Faegre & Benson
1700 Lincoln Street, Suite 3200
Denver, CO 80203

Richard E. Parker
34996 S. 502 Rd
Park Hill, OK 74451

Robin L. Wofford
Rt. 2, Box 370
Watts, OK 749764

Steven B. Randall
58185 Country Road 658
Kansas, OK 74347

Susann Clinton
23605 Goodnight Lane
Welling, OK 7447

J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118

/s/ *Paula M. Buchwald*
Paula M. Buchwald